

## **DISCLAIMER**

*This electronic version of an SCC order is for informational purposes only and is not an official document of the Commission. An official copy may be obtained from the [Clerk of the Commission, Document Control Center](#).*

**COMMONWEALTH OF VIRGINIA, ex rel.**

**STATE CORPORATION COMMISSION**

**v.**

**CASE NO. PUE990006**

**WEST ROCKINGHAM WATER COMPANY, INC.,  
Defendant.**

## **REPORT OF HOWARD P. ANDERSON JR., HEARING EXAMINER**

**July 8, 1999**

On March 8, 1999, the State Corporation Commission issued a Rule to Show Cause ("Rule") against West Rockingham Water Company, Inc. ("West Rockingham" or "Company") for alleged violations of Section 56-265.13:4 of the Code of Virginia. The Rule further ordered the Company to show why its water certificate No. W-282 should not be revoked, altered, or amended unless the Company agrees to: (i) bring the water system into compliance with both United States Environmental Protection Agency and Virginia Waterworks regulations by installing sufficient filtration and disinfection systems to solve surface water problems; and (ii) conduct a thorough study of the entire system and, within six months of the date of the Order herein, present a plan to solve the source and infrastructure problems with the system. The Company was ordered to file, on or before April 9, 1999, a responsive pleading expressly admitting or denying the allegation contained in the Rule. The Company was further ordered to appear before the Commission at 10:00 a.m. on May 6, 1999.

On April 2, 1999, a Petition to Move Hearing ("Petition") signed by forty-three (43) of the Company's customers was filed with the Commission. The Petition requested the May 6<sup>th</sup> hearing be moved to Rockingham County. By Hearing Examiner's Ruling of April 5, 1999, the Petition was granted and the hearing was moved to the Rockingham County Administration Center in Harrisonburg. Appearing at the hearing were R. Creigh Deeds, counsel for the homeowners; Thomas H. Miller, Jr., counsel for the Company; and M. Renae Carter, counsel for Commission Staff. A transcript of the proceeding is filed with this Report.

## **SUMMARY OF THE HEARING RECORD**

West Rockingham was purchased in 1976 by William Wise (40% interest) and by George and Gary Burner (60% interest); the Company received its Certificate of Public Convenience and Necessity from the Commission on June 23, 1996. The Company has sixty-one (61) water service connections in the Lilly Gardens and Sunset Heights subdivisions in Rockingham County, Virginia.

Twenty-one public witnesses testified at the hearing regarding many problems with the water system. These problems have been occurring for many years, almost from the inception of the system. Roy Hilbert testified that he has experienced low water pressure and cloudy water for

about thirty-four years. (Tr. 15). Other customers related ongoing problems for twenty to twenty-nine years.<sup>1</sup> The most common complaints regarding the water system were dirty water,<sup>2</sup> little or no water pressure,<sup>3</sup> constant water outages,<sup>4</sup> and frequent breaks in the water mains.<sup>5</sup> In the past, customers have strung garden hoses from house to house for as long as a month to share water.<sup>6</sup> Customers find it difficult, if not impossible, to sell their homes once potential buyers become aware of the condition of the water system.<sup>7</sup> Customers have sought relief from the Company,<sup>8</sup> the County,<sup>9</sup> and the health department,<sup>10</sup> to no avail. Several customers testified they were willing to pay more money in return for decent water.<sup>11</sup> (Tr. 42, 66).

John Aulbach, district engineer for the Virginia Department of Health (“DOH”), testified that his department conducts inspections of water systems to determine compliance with state regulations. Formal inspections mandated by the Environmental Protection Agency are made every five years. However, Mr. Aulbach explained that Virginia is on an accelerated program and inspections are made every eighteen months to two years. The DOH first became aware of problems at West Rockingham in the late 1980’s. (Tr. 117). After investigation and consultation with Mr. Wise, the owner, storage tanks were installed. The two storage tanks, which are connected so the water passes through both tanks before reaching the customers, were primarily intended to alleviate the sediment problem. (Tr. 118). West Rockingham’s problems obviously remain, however, and are multi-faceted.

---

<sup>1</sup> W. J. Andruscavage has experienced dirty water and complete lack of water on a daily basis for twenty-nine years. (Tr. 26, 27). Connie Moyer has experienced water stoppage for five minutes at a time, low water pressure and dirty water for twenty-one years. (Tr. 25). F. Donald Crouse has been on the system for twenty-nine years and has experienced problems for the entire period. (Tr. 28, 29). Donna Howell has experienced dirty, muddy water from the system for twenty-two years. (Tr. 9).

<sup>2</sup>Tr. 6, 8, 10, 13, 16, 25, 37, 68, 70.

<sup>3</sup>Tr. 15, 17, 22, 25, 49, 51.

<sup>4</sup>Tr. 11, 24, 26, 49, 56, 67.

<sup>5</sup>Tr. 19, 21, 57.

<sup>6</sup>Tr. 63.

<sup>7</sup>Tr. 32, 59.

<sup>8</sup>Tr. 8, 39, 63.

<sup>9</sup>Tr. 38, 44.

<sup>10</sup>Tr. 47, 67.

<sup>11</sup>Customers are currently charged a flat rate of \$17.00 per month.

The customers living in the Lilly Gardens subdivision experience low water pressure because the water lines are too small,<sup>12</sup> and the galvanized pipe has many pinhole leaks due to age and corrosion. Also, the water lines in Lilly Gardens were not looped to enhance reliability, nor were blow-offs installed which would have allowed lines to be flushed. (Tr. 120).

The Sunset Heights subdivision is newer and has modern PCV pipe. Unfortunately, the pipe was not properly installed. Instead of being embedded in small gravel, which would allow the pipe to flex without breaking, the pipe is surrounded by river jack and rock. This oversight has resulted in frequent breaks, causing low water pressure and water outages. (Tr. 120).

Water leaks are a severe problem in the Sunset Heights section. Finding the leaks is often difficult with the equipment the Company uses because of interference from power cables and telephone lines buried in the same trench as the water mains. (Tr. 121). Often, several excavations have to be made before the leak is found. (Tr. 122).

In September of 1995, the largest well (and main producer of water) was discovered to be under the direct influence of surface water. (Tr. 119). Mr. Aulbach explained that the entire area is contaminated with fecal coliform bacteria. The sources are agricultural practices and individual septic tank drain fields. Although only one of the Company's two wells has tested positive for coliform contamination, the Company's second well is being monitored. (Tr. 136). Two solutions exist: a filter system can be installed and the water can be chlorinated. Chlorination is currently being done and has been increased to ensure against recurrence of bacteriological problems. (Tr. 128). Installation of a filtration system is discussed below.

Mr. Aulbach further explained that the Company's wells are properly constructed and grouted. The underlying problem is the nature of the geology. The surrounding soil and rock do not provide adequate natural filtration, therefore a filtration system must be installed. (Tr. 133, 134).

Currently, the Company is in violation of the National Primary Drinking Water Regulations<sup>13</sup> and the Commonwealth's Waterworks Regulations.<sup>14</sup> In January of 1999, the Company experienced a positive coliform sample. This, in itself, is not a violation because a water system in Virginia is allowed one total coliform bacteria sample per month. Once the positive coliform sample exists, however, the Company is required to take four repeat samples to confirm whether there is an actual water quality problem or a laboratory testing error. The Company collected only one of the four required samples, and therefore was in violation of the monitoring regulations noted above. (Tr. 126).

---

<sup>12</sup>Larger lines were not required at the time this part of the system was constructed. (Tr. 120).

<sup>13</sup>40 CFR § 141.21(b)(1).

<sup>14</sup>12 VAC 5-590-380 D(1).

Mr. Aulbach also identified the need for a cross-connection control program to ensure that service connections do not negatively affect water system quality. For example, the use of private pumps and storage tanks can result in back pressure forcing water back into the distribution system resulting in contamination.<sup>15</sup> Mr. Aulbach pointed out that the private pumps also cause negative pressure in the distribution system resulting in water outages to surrounding homes.<sup>16</sup> (Tr. 132).

Mr. Aulbach listed three priorities that need to be addressed by West Rockingham: (1) provide a filtration system; (2) perform repairs, maintenance, and improvements to the distribution system; and (3) dig a third well. However, Mr. Aulbach concedes that a new well would also be subject to groundwater contamination.

Staff introduced a preliminary engineering report for West Rockingham (Ex. No. JJA-7) dated May 4, 1999, which was prepared by Mr. Wise and submitted to DOH. The report provides details of the Company's financial condition, the proposed plant improvements, and a cost analysis of the effect on customers' rates. The report provides a plan of action, but does not contain time frames. Mr. Aulbach maintains that further study of the water system would be a waste of time and money. The water system's problems are known and the plan of action contained in the report adequately addresses the problems. The priorities with their respective costs are as follows:

1. A filtration system would cost \$40,255 and increase the average customer bill by \$8.07 a month;<sup>17</sup>
2. Replacement of distribution lines would cost \$105,425 and increase the average customer bill by \$10.65 a month;<sup>18</sup> and
3. A third well would cost \$111,000.<sup>19</sup>

Mr. Aulbach explained the State Drinking Water Revolving Fund which provides low-interest money to local water systems to assist in providing necessary improvements to water systems. (Tr. 143). In Mr. Aulbach's opinion, West Rockingham should be a good candidate for a loan, based on the system's problems, the history of customer complaints, and the attention generated by the hearing held in this case. (Tr. 144). Because this program is a revolving fund and

---

<sup>15</sup>Tr. 131.

<sup>16</sup>F. Donald Crouse described the system he has set up in his basement. He started with four filters and a forty-five (45) gallon compression tank. Mr. Crouse did install a check valve to prevent the water from flowing back into the system. He found the forty-five (45) gallon tank performed well for small water needs, however, he still ran out of water. Mr. Crouse then installed a one hundred twenty (120) gallon fiberglass storage tank which afforded him a full day's supply of water. Mr. Crouse installed a shallow well pump to transfer water from his storage tank to his expansion tank. (Tr. 29).

<sup>17</sup>The Company's attorney, Mr. Miller, corrected an initial estimated monthly increase of \$4.07 to an increase of \$8.07 a month. (Tr. 183).

<sup>18</sup>Mr. Aulbach described the estimates as "not excessive" and "fairly accurate." (Tr. 141, 142).

<sup>19</sup>Tr. 176.

the loans have to be repaid, Mr. Aulbach explained the importance of a rate structure sufficient to cover the repayments. Finally, the engineering report indicates the Company's readiness to proceed with the necessary improvements, described by Mr. Aulbach as an important factor. (Tr. 145).

Mr. Aulbach pointed out that West Rockingham has problems similar to many small water systems in the Commonwealth, especially water systems up and down the Shenandoah Valley. These small water companies have little money and face extraordinary filtration costs. (Tr. 151, 152). Mr. Aulbach agrees with the Company's priorities of installing a filtration system and replacing the distribution lines. (Tr. 163). These two improvements would significantly upgrade service to West Rockingham's customers. (Tr. 170). The DOH has approved the engineering report completed by West Rockingham. (Tr. 168).

William Wise, an owner of West Rockingham, testified that the Company is currently not meeting its operating costs.<sup>20</sup> (Tr. 184). Although he is willing to make as many improvements as the customers are willing to pay for, Mr. Wise emphasizes the current situation cannot continue. (Tr. 185). When asked if the Company had plans to file for a rate increase, Mr. Wise answered affirmatively, subject to determining an amount. (Tr. 187). In response to customer complaints, Mr. Wise explained that the Company has no employees and usually an independent plumber has to be contacted to make repairs. Mr. Wise explained that, although Mr. Nadeau<sup>21</sup> is a licensed water system operator employed by Wise & Associates,<sup>22</sup> he does not have the equipment necessary to make repairs to the water system. (Tr. 199).

Based on the evidence in this case, I find that:

(1) West Rockingham should file for a rate increase sufficient to cover current operating costs and sufficient to recover costs of a filtration system and necessary repairs and replacement of the distribution system;

(2) West Rockingham should be directed, if it has not already done so, to file application for available grants and loans to cover the cost of making the necessary improvements discussed in this Report;

(3) West Rockingham should file with the Commission progress reports indicating its compliance with the directives discussed above; and

(4) Staff should monitor the Company's progress in making the improvements to the water system deemed necessary for adequate service to be provided to the Company's customers.

---

<sup>20</sup>Later, Mr. Wise confirmed that he was providing money to cover current operating costs. (Tr. 195).

<sup>21</sup>Staff witness Tufaro described Mr. Nadeau as the operator of the West Rockingham water system.

<sup>22</sup>Wise & Associates was formed by Mr. Wise about two years ago to provide engineering services to water companies in the region.

I therefore **RECOMMEND** the Commission enter an order that:

1. **ADOPTS** the findings contained herein, and
2. **CONTINUES** this case on its docket of active cases until such time as the Commission determines that West Rockingham is providing adequate service to its customers.

### **COMMENTS**

The parties are advised that any comments (Section 12.1-31 of the Code of Virginia and Commission Rule 5:16(e)) to this Report must be filed with the Clerk of the Commission in writing, in an original and fifteen (15) copies, within fifteen (15) days from the date hereof. The mailing address to which any such filing must be sent is Document Control Center, P. O. Box 2118, Richmond, Virginia 23218. Any party filing such comments shall attach a certificate to the foot of such document certifying that copies have been mailed or delivered to all other counsel of record and to any party not represented by counsel.

Respectfully submitted,

---

Howard P. Anderson, Jr.  
Hearing Examiner